

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

TUESDAY, THE 9TH JANUARY 2007 / 19TH PAUSHA 1928

WP(C).No. 883 of 2007(E)

PETITIONER:

**M/S.K.RAVINDRAN, GOVERNMENT CONTRACTORS,
6/348, K.R.COMPLEX, YMCA ROAD,
KOZHIKODE-REPRESENTED BY ITS JOINT MANAGING
PARTNER-V.RAJEENDRANATH.**

BY ADV. SRI.R.RAMADAS

RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, KOZHIKODE.**
- 3. THE SALES TAX OFFICER,
WORKS CONTRACT & LUXURY TAX,KOZHIKODE.**
- 4. DEPUTY TAHSILDAR,
REVENUE RECOVERY, KOZHIKODE.**

BY GOVERNMENT PLEADER SRI.SOJAN JAMES

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

P.R.RAMAN, J.

W.P.(C) NO. 883 OF 2007

Dated this the 9th day of January, 2007

J U D G M E N T

Petitioner impugnes an interim order passed by the Deputy Commissioner, appeals granting him stay of collection of the balance tax pending consideration of the appeal, in case the petitioner remits 50% of the disputed tax amount. It is the contention of the petitioner that this order has been passed in a mechanical way without application of mind. It is his contention that, for the assessment year 96-97, 97-98 assessments were completed on 28/6/2000 and the present order was passed on 22/8/2005 and served on him later after the expiry of the five years period from the completion of the relevant assessment year. As such it is barred by the provisions contained in Section 19 of the K.G.S.T.Act. Petitioner has made out prima facie case. However, since the matter is pending in appeal, it is for the appellate authority to consider after calling for the records relating to the case and decide the case finally. If the contention of the petitioner is accepted, then there may not be any liability as per impugned orders pending consideration in the appeal. In

the above facts and circumstances requiring the petitioner to pay 50% of the balance tax will be arbitrary without application of the mind and cannot be considered to be an order passed in accordance with law.

2. Heard the learned Government Pleader.

3. In the facts and circumstances, there will be direction that in case the petitioner pays 25% of the amount as demanded in Exhibits P1 and P2, there will be stay of the collection of the balance tax until the appeals Exhibits P3 and P4 are finally disposed of. The said amount shall be paid within a period of one month from today, failing which the petitioner will lose the benefit of this order.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp